

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent.

On October 20, 2006, Petitioner Duane Edward Wicker (“Petitioner”) filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside or correct sentence. Petitioner alleges two grounds in support of his § 2255 motion. The first ground attacks the sufficiency of the evidence as to the interstate commerce element, and the second ground discusses racketeering and the lack of evidence connecting Petitioner to the crime of conspiracy to commit murder.

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1 Petitioner's motion solely challenges the sufficiency of the evidence, which has already
2 been considered and rejected by this Court in Defendant's post-trial motion, and again by the
3 Ninth Circuit in Petitioner's subsequent appeal. "Under the 'law of the case' doctrine, a court is
4 generally precluded from reconsidering an issue that has already been decided by the same court,
5 or a higher court in the identical case." *United States v. Alexander*, 106 F. 3d 874, 876 (9th Cir.
6 1997) (internal citation and quotation omitted). None of the recognized exceptions to this
7 doctrine apply in this case.

8 Accordingly, Petitioner's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28
9 U.S.C. § 2255 is **DISMISSED WITH PREJUDICE**.

10 **IT IS SO ORDERED.**

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12 DATED: July 21, 2008

13 
14 M. James Lorenz
United States District Court Judge

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16 COPIES TO:

17 PETITIONER
18 U.S. ATTORNEY'S OFFICE
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